

**IME Business and Labor Advisory Team Meeting**  
**December 07, 2021**  
**9:30 AM – 11:30 AM (Zoom)**

**Present:** Kelli Fussell, Kristen Baldwin-Boe, Tanya Weber, Karen Jost, Teri Baughman, Nancy Adams, Stuart Bammert, LaNea Lien, Knowrasa Patrick, Dane Henager, Kelli Zimmerman, Melissa Dunbar, Ann Silvernale, Richard Clyne, Chantelle Yeager, Lisa Vivian, Kathy Potvin, Lloyd Brooks, Donna Egeland

**Guests:** Joann Willyerd, Kristin McCoy, Cristy Zarate, Bob Mayer, Suzy Campbell, Debra Hatzialexiou, Sean Holloman, Rose Gundersen, Starla Treznoski, Carolyn Logue, Mel Sorensen, 253 phone #

**Absent:** Cheri Ward, Gary Kolonja, Joel McCullough

**Brief Summary of Activities:**

- Announcements & Safety Message
- IMEs –Draft Rules Update
- IME Program Updates
- Quality Measures
- December 2020 IME Legislative Workgroup
- IME Steering Committee
- Updates
- The Future of IMEs
- Open Discussion: Concerns, Future Topics, Round the Table, Public Comments

**Announcements & Safety Message:**

Kristen reviewed zoom meeting etiquette.

Introductions: Cristy Zarate is the new Interpretation Services Manager, and Richard Clyne was appointed as new business representative replacing Tammie Hetrick. Debra Hatzialexiou is the Program Manager for Legal Services, and will give an update on rule writing. Bob Mayer works with the payment policy team and will present the IME fee updates.

The agenda was reviewed.

Kristen shared the safety topic regarding downed power lines. Do not go near any lines that are down. Always assume the lines are active. They can energize the ground up to 35 feet away. If you see a downed power line, immediately notify the local authorities.

**IMEs – Appeals Draft Rule Language: Debra Hatzialexiou**

Debra gave a quick update on the draft rules. Based on feedback received some of the language was updated. The updated sections were shared. For WAC 296-23-308 Scheduling case progress examinations, an option was added for the Attending Provider (AP) to request an IME for case progress. The time limit was also changed to allow case progress IMEs no more than once every 120 days with the exceptions under certain circumstances that may be approved by L&I. Other updates made to the language were less significant and focused on clarity and consistency. Comments can be sent to Suzy Campbell at [Suzanne.campbell@lni.wa.gov](mailto:Suzanne.campbell@lni.wa.gov)

Suzy will send out the complete WAC language to this group after the meeting. The CR 102 is going to be filed on December 21 and the rule language is then available for further comment. The slides from this meeting will be shared as well.

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**IME Program Updates:**

**Interpretation Services Program Update – Cristy Zarate**

Cristy Zarate manages all interpreter services including the contracts with interpretingWorks, and CTS for phone interpretation.

Cristy gave an update on Interpretation Services Program. In person Language Access Providers (LAP) were required to be vaccinated by October 18, due to the Governor's mandate. A graph of the number of LAPs that were vaccinated was shared. Just over 70% are now vaccinated. Verification of vaccination is the responsibility of the scheduling party. L&I and interpretingWorks do not verify this.

Cristy shared some data for CTS LanguageLink. CTS was advised there may be an increase in services after October 18 due to the vaccination mandate. Since October 18, they average around 500 calls per week with very low unfulfilled rates. The average wait was between 17-19 seconds.

LAP late cancels and no shows are being tracked by interpretingWorks. L&I and interpretingWorks are in the process of implementing an Incident Resolution Process (IRP) for LAPs. interpretingWorks is conducting outreach and educating LAPs of the effects that no shows and late cancelations have on injured workers and how this behavior impedes the examiners from providing quality care. The response will be education first, and up to termination if necessary. This process should be implemented early next year.

There have been some process revisions. An immediate email notification will be sent to the scheduler when no LAP is in the scheduling system in the language requested. An email notification will also be sent if a request remains unfulfilled two weeks prior to the appointment date. On-Demand scheduling can be used only when a request is not filled 24 hours prior to the IME, the assigned LAP cancels within 24 hours of the exam, or the assigned LAP does not show up for the exam. ASL/touch interpretation is not available through interpretingWorks and schedulers can use the look up tool for this.

The contact information was shared for interpretingWorks & CTS, as well as Cristy's contact information.

There are currently no figures on cost to the department when an interpreter does not show. L&I is asking providers to use CTS as a backup when an interpreter no shows or late cancels and they are unable to schedule another in-person LAP rather than canceling the appointment completely. The group would be interested in the "hard cost" for L&I as well as the "soft cost" for possible time loss paid to the worker or delay of claim resolution.

**2<sup>nd</sup> Quarter Results Examiner Exit & Retention Surveys – Kelli Fussell**

Kelli gave a brief update on the exit and retention surveys. These started April 1 this year. The second quarter of data is now available. Currently the response rate is at 23%. Demographic data was also shared.

Nothing has been done to increase the survey responses as this is fairly new. L&I could possibly send out a reminder email to all examiners encouraging them to complete surveys they are sent. The firms had mentioned in a previous meeting they could encourage examiners to respond to the surveys. It is not clear if the examiners that mentioned fees in their survey responses had knowledge of any fee changes. L&I pays the firms directly and the firms pay the examiners.

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The surveys are sent directly to the examiners since most examiners work with multiple firms.

**Reminder Regarding Timeline & Suggestions for MEH Update – Kristen**

Kristen reminded the group that updates to the Medical Examiners' Handbook (MEH) will be starting next month. Every January the MEH subject matter experts (SMEs) begin meeting to review the handbook for July edits. The group includes SMEs from different programs in the agency. Input is collected from any and all stakeholders throughout year. The SMEs review all the suggestions and their chapter(s) of the MEH. Suggestions can be sent to Kristen, Kelli Fussell, or Melissa before February, 2022.

**Telemed/Worker Accommodation Rule-Writing - Kristen**

The 6440 legislation required L&I to create rules around how to accommodate the worker when there are no IME examiners in a reasonably convenient location. This included rules around telemedicine when appropriate and governing the use of telemedicine IMEs. Research has been completed by the department which didn't find any other jurisdictions doing telemedicine IMEs before the pandemic. The University of Washington study on all telemedicine, which included IMEs, was completed and the final report was received in June. That study showed nothing surprising and mental health IMEs seemed to be the most appropriate use for telehealth. Tanya has also completed reviews of the telemedicine IMEs completed so far. She reviewed the quality of those telemedicine exams which she will present next. Rule language has been drafted and the internal stakeholder group has commented and edited the draft language. This has now been sent to upper level managers for comments. The next steps will be scheduling meetings with external stakeholders early in 2022. Kathy Potvin and Chantelle Yeager have volunteered to represent business and labor on the external stakeholder group. If you have suggestions or comments, you can touch base with them. Carolyn Logue is representing IME providers along with one or two other examiners. Once the rule is drafted, the CR 102 will be filed and the regular process with hearings and external comments will be followed.

**Quality Measures:**

**Telemedicine IMEs - Tanya**

Tanya gave a quick update regarding her telemedicine reviews. Telemedicine was approved for mental health, dermatology, speech when there is not documented hearing loss, kidney function, hematopoietic system, and endocrine. All but one telemedicine IME was for mental health, and that was endocrinology.

There were 208 unique claim numbers reviewed. Mental health is the primary specialty using this type of exam. Tanya uses a checklist developed for telemedicine IMEs. Tanya shared some stats on the completed reviews. The numbers of issues/errors have gone down from last year, 2020. The data indicates that L&I should probably conduct some outreach to firms to help improve the quality of these reports however, she is seeing a downward trend.

**Quality Data – Tanya**

Tanya has also been doing IME Report Quality Reviews. She shared some of the data on these reviews from 2019 to present. Most of the reviews have been done for state fund claims due to limited access to SI IMEs. Starting next year there will be a process to gather more SI claims for each examiner during their review.

Addendum requests: New examiner reports reviewed in 2019 and 2020 only showed a non-

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billable addendum requested about 4% of the time. This dropped to 2% in 2021. All other examiners remained steady at 3% in 2019 and 2020 and 4% in 2021. Addendums for State Fund and SI was compared however, SI data started being reviewed in 2020 and there are only a small number of claims that were reviewed; 10 in 2020 and 15 so far in 2021.

Tanya reviewed the data for impairment rating issues and compared new and existing examiners. There was a rise in 2020 in the percentage of impairment rating issues in reports from new examiners. That went down again in 2021. The amount of impairment rating issues increased for existing examiners in 2020 and had remained in 2021.

Tanya will continue monitoring this data over time. Once there are more SI reports to review there may be additional trends to look at. L&I is actively working on impairment rating education for examiners as well.

State Fund reports are pulled based on billing data however, it is more difficult to gather SI reports because there is no billing data or reports in Orion. If an examiner has no billing data in the last 33 months since their last renewal, there is a template letter Kelli sends to the firms that examiner works with. This letter requests the claim numbers from their last 10 SI exams. There is a process to request the report for Tanya to review. Tanya will start in about January writing to firms to get SI claims and will get reports to review for every examiner up for renewal. This will include all the firms the examiner works with

The group noted there is billing data for SI now with EDI. The SI community would appreciate if this would be used to get the information needed as everything on a billing form is captured. Tanya and Kelli can reach out to SI to see if the information in EDI can be used to obtain the data necessary to do the reviews. Previously we haven't been able to identify the examiner with EDI data.

**December 2020 IME Legislative Workgroup:**

**Status of Recommendations - Karen**

Karen gave a brief update on the work completed by the workgroup. The criteria for expedited exams and how to pay for them was reviewed, and no changes were made at this time.

Fee schedule work is currently underway and well as rule making. The Case Progress rule making was shared earlier in the meeting. Suzy can provide the draft of the newest language that Kristen will send out after the meeting. Additional rules being worked on are surrounding improving the department's ability to intervene on SI IME disputes, focus on the subset of claims that have too many IMEs, and an additional WAC not specific to a recommendation in the legislative report. This is WAC 296-23-401, Can the department schedule an examination or order a self-insured employer to schedule an examination after receipt of an appeal to the board of industrial insurance appeals (BIIA).

The decision was made not to proceed with recommendations for rulemaking to limit hand-selection of examiners, to set an enforceable deadline for records to be sent to examiners (for SI claims), as well as the creation of a consultant list.

Some recommendations were saved for future work. This included exploring additional ways to reduce the number of IMEs per claim, the quality of chart notes and required report documentation for attending providers, and consideration on whether requirements for IME report

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documentation can be streamlined.

The comment was made that the legislation never required a reduction in the number of IMEs per claim. A letter was submitted to Vickie Kennedy regarding this question along with others. Rose will send a copy of the letter for Karen to review and see if it should be shared with this internal team.

**IME Fee Schedule Review – Bob Mayer**

Bob Mayer discussed the fee schedule work that is underway. A workgroup developed a modified IME fee schedule draft and internally stakeholdered it. The draft is now being re-worked. Some ideas being considered include bundling some ancillary billing codes into existing base codes, increasing base codes as a result of this bundling. Another idea being looked at is creating one multiple claims billing code to be billed by units, creating a single generic no-show billing code, a single generic late cancellation billing code, and creating a new billing code for hard to recruit provider specialties.

Next steps are to get internal management approval of the concept and the fee schedule draft. Then they will stakeholder externally. A one-time additional COLA in 2022 for the IME fee schedule is also being considered.

The workgroup would like to get this out for external stakeholders by beginning of the year 2022 however, it has to get through internal stakeholders first.

**IME Steering Committee**

**Status - Karen**

Karen gave a quick update regarding the IME steering committee. There have been two updates to the committee members; Knowrasa Patrick for SI and Gary Kolonja for Region 2 which is where Stuart Bammert's schedule team is.

Topics discussed since the last update in August, other than the 6440 workgroup recommendations, were shared. Prisoner transport to IMEs was discussed and the decision was made to continue to work with examiners to get them to travel to the prison for exams. Some topics that are pending completion of other work include alignment of IME complaint data collection, and organizing claim files. The organization of the claim files would require significant technical support and resources. This may end up happening with the worker compensation system upgrade that is currently underway. An IME quality dashboard and what data should be included is also being discussed.

**Updates**

**Claims - Nancy**

Nancy gave a claims department update. Claims is considering the question, 'How many IMEs are too many?' They are not looking at a specific number as too many, they are looking at data and what causes multiple IMEs on a claim. State Fund is looking at claims and doing a manual review of claims that have five or more IMEs in a short amount of time. The data should be back to her by the 17<sup>th</sup> of December for her to take a deeper look.

There was a communication that went out in October from the Retro team which caused some confusion. Nancy worked with Retro to get clarity and Nancy responded to 3 email questions that came in, by clarifying the actual RCW. The Retro communication indicated there could only be

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one IME per claim for a list of reasons. We received emails questioning the 'one IME' language. It turns out the language was a poorly worded interpretation of the RCW. Nancy will check with retro about a follow up communication.

The training that Claim Managers (CMs) received did not state that a consult is required before IME, but that a consult should be considered when it's appropriate. This is in line with the current claims training which states CMs should get the information they need at lowest level possible; either the AP, a consult, or an IME if appropriate. No change, just a reminder that consultations are another option.

The comment was made that the earlier presentation on case progress rules seemed to be addressing the "too many" question in the CR 102 being dropped in the 21<sup>st</sup>. Several attendees asked if this can be checked on because it sounds like two sections of L&I are not on the same page.

**Scheduling - Stuart**

Stuart shared data on the total number of IMEs, consultations, and time-loss claims. The number for all of these has steadily decreased between 2016 and 2021. The amount of referrals have continued to drop. There seemed to be a drop in 2020 due to Covid, and in January 2021 due to 6440 legislation. Overall there has been a 40% drop in the last three years. This trend will continue to be monitored. The information on the number of consultants may not be completely accurate because at some point they were allowed to bill an office visit.

**Self-Insurance – Starla T.**

Starla shared some SI data on the volume of IMEs from 2018 to present. It was noted that mandatory reporting to EDI started in January 2020, so data before that may not be completely accurate.

When EDI came about there was a soft start. Reporting was only required for claims on or after January 1, 2020. Some SI have been reporting all however it is not required and so only required data is accurate.

**The Future of IMEs: Chantelle Yeager**

Chantelle kicked off the conversation regarding the future of IMEs. She looked at cost data in 2017 and realized they were spending a lot on IMEs. However, when she started doing audits to look at the actual numbers and why there were so many IMEs, she found a vast majority of them were appropriate. That started her thinking that possibly we are trying to solve the wrong problem. The worry is that as L&I focuses on reducing the number of IMEs, it may be limiting a necessary tool. We are somewhat neutering the IME program with the trajectory we're on. An IME may be the only thing to move the claim along in some instances. L&I should be looking at the cause for the increased number of IMEs for a claim. The medical provider network has been in place almost ten years and maybe L&I should take a closer look at the MPN criteria. It might be that APs are not recommending treatment according to L&I guidelines, or not wanting to confront a worker when treatment is complete but they treat that worker's whole family. L&I should maybe look at the current criteria for staying in network. Should there be requirements to regularly submit documentation and treatment plans as an example? It was encouraging to hear Nancy say they were looking at the cause for multiple IMEs in a short period on a claim.

Several members commented that the problem stems from the AP not complying with what they should be doing such as making sure their reports contain the necessary information, etc. and L&I

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not enforcing what is needed. We need a way to question the ARNPs and PACs treatment plans when they don't make sense. It is suspected that after more data is looked at it might be found that there is something else going on and the problem L&I is attempting to solve is not the real issue.

It is hard to comment on policies that appear to be being made without any data. Improving services to claimants will require focusing on the quality not the quantity. IME examiners are board certified while consultants do not have the same quality and rigorous screening.

Nancy noted she is glad to have this discussion and get the input from the group. Another consideration is what is being asked of the AP. Claim Managers need to make sure they are asking the correct questions to get what is truly needed. A canned letter is easier but may not have the questions that will really help the claim move forward.

Some Claim Managers might be getting IMEs because they are having issues with the AP not providing the information that is needed. But the CMs need to ask the right questions. APs may not be as responsive as they should be. There are WACs that are very clear regarding what is expected of APs. L&I may be able to do better on enforcing those rules. There may be training issues as well for APs.

This topic can be continued at the next meeting in April. Teri Baughman maybe can talk to the process for quality review of MPN providers and the complaint process for Attending Providers.

**Public Comments:**

Carolyn wanted to make sure it was noted that IMEs serve as a consistent review of the AP's work. IME reports are not looked at for that information.

For consults, there should be consistent billing coding so they can be tracked and provide consistent data. There needs to be some clear education to workers themselves and what they are being seen for in an IME. Workers may be confused why they are being seen for an IME or a consult.

Rose mentioned that all the rules she could find for consultations were from the 90's. These rules should be reviewed and updated, and L&I should make sure they are being used correctly. L&I cannot rely on old rules that may not completely apply to how things are now.

The email box for concerns about MPN providers is [provider.compliance@lni.wa.gov](mailto:provider.compliance@lni.wa.gov). This feedback goes to the ONCs in the provider quality and compliance unit.

The group would like to hear from self-insurance (SI) more on what they are working on.

Hearing about MPN vs IME requirements would be helpful.

**Future Meetings:**

<b>Tuesday</b>	<b>April 05, 2022</b>	<b>9:30am – 11:30</b>	<b>Location TBD</b>
<b>Thursday</b>	<b>August 11, 2022</b>	<b>9:30am – 11:30</b>	<b>Location TBD</b>
<b>Tuesday</b>	<b>December 06, 2022</b>	<b>9:30am – 11:30</b>	<b>Location TBD</b>